

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

THOMAS A. LUTZ,

Plaintiff,

9:19-cv-0262 (BKS/CFH)

v.

ELIZABETH O'MEARA, et al.,

Defendants.

Appearances:

Plaintiff, pro se:

Thomas A. Lutz
Poughkeepsie, NY 12601

For Defendants:

Hon. Letitia James
Jorge A. Rodriguez
Assistant Attorney General
New York State Attorney General
The Capitol
Albany, NY 12224

Hon. Brenda K. Sannes, United States District Judge:

MEMORANDUM-DECISION AND ORDER

Pro se Plaintiff Thomas A. Lutz, a former New York State inmate, commenced this action asserting claims under 42 U.S.C. § 1983 arising out of his incarceration. (Dkt. No. 1). On June 18, 2020, Defendants filed a motion to dismiss under Fed. R. Civ. P. 41(b) based on Plaintiff's failure to comply with his discovery obligations. (Dkt. No. 31). Plaintiff did not respond to the motion. This matter was assigned to United States Magistrate Judge Christian F. Hummel who, on January 5, 2021, issued a Report-Recommendation recommending that Defendants' motion to dismiss be granted and that Plaintiff's complaint be dismissed without

prejudice. (Dkt. No. 34). Magistrate Judge Hummel advised the parties that under 28 U.S.C. § 636(b)(1), they had fourteen days within which to file written objections to the report, and that the failure to object to the report within fourteen days would preclude appellate review. (Dkt. No. 34, at 9).

No objections have been filed. As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 229 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee's note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Court adopts the Report-Recommendation in its entirety.

For these reasons, it is

ORDERED that the Report-Recommendation (Dkt. No. 34) is **ADOPTED** in its entirety; and it is further

ORDERED that Defendants' motion to dismiss pursuant to Fed. R. Civ. P. 41(b) (Dkt. No. 31) is **GRANTED**; and it is further

ORDERED that Plaintiff's complaint (Dkt. No. 1) is **DISMISSED without prejudice**; and it is further

ORDERED that the Clerk serve a copy of this Order upon the parties in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: February 3, 2021
Syracuse, New York


Brenda K. Sannes
U.S. District Judge